

<sup>2</sup> The Board notes that, following the January 22, 2021 decision, appellant submitted additional evidence to OWCP. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted November 28, 2020 employment injury.

## **FACTUAL HISTORY**

On December 2, 2020 appellant, then a 28-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on November 28, 2020 she fractured her right ankle when removing items from the back of her vehicle, she stepped down, heard a popping sound and experienced instant pain while in the performance of duty. She stopped work on November 28, 2020 and worked intermittently thereafter.

On November 28, 2020 Dr. Thang N. Dang, a Board-certified family practitioner, treated appellant for right ankle pain. Appellant reported exiting her mail truck when she heard a crack and pop in her right ankle and foot. Findings on examination revealed diffuse tenderness on palpation of the right foot and ankle and minimal swelling. X-rays of the right ankle revealed fracture of the medial upper talus area, small avulsion fracture. Dr. Dang diagnosed right foot and ankle sprain and right talus avulsion fracture. He wrapped her right ankle with an Ace bandage and placed her on crutches. In a work release report dated November 28, 2020, Dr. Dang evaluated appellant for a right ankle sprain/fracture and indicated that she could return to work with restrictions on November 30, 2020.

Appellant was treated by Dr. Frederick P. Korpi, a Board-certified orthopedist, on November 30, 2020 for a right ankle injury. She recounted that on November 28, 2020 she rolled her ankle while stepping out of her mail truck at work. Findings on examination revealed tenderness to palpation of the anterior talofibular ligament, the calcaneofibular ligament, and posterior inferior tibiofibular ligament, minimal tenderness to palpation medially, tenderness over the talar dome, and moderate swelling medially. Dr. Korpi diagnosed a grade three sprain of the unspecified ligament of the right ankle and fracture of right talus. In a work ability report of even date, he diagnosed sprain of unspecified ligament of the right ankle, initial encounter and other fracture of right talus, initial encounter for closed fracture. Dr. Korpi noted that appellant was unable to work from November 28, 2020 through January 4, 2021. In duty status reports (Form CA-17) for examinations that occurred on November 30 and December 7, 2020 and January 4, 2021, he diagnosed sprain of unspecified ligament of right ankle, initial encounter and advised that appellant was totally disabled from November 30, 2020 through January 11, 2021. On November 30, 2020 Dr. Korpi prescribed a walking boot for appellant's right ankle.

In a patient visit summary dated November 30, 2020, Michael C. Valentino, a physician assistant, diagnosed sprain of unspecified ligament of the right ankle, initial encounter, and unspecified fracture of right talus, initial encounter for closed fracture. Appellant reported exiting her truck when she rolled her ankle and heard a pop and felt a burning sensation. Mr. Valentino noted that appellant was off work.

A magnetic resonance imaging (MRI) scan of the right ankle performed on December 2, 2020 revealed tears of the anterior talofibular ligament and the calcaneofibular ligament, mild

sprain of the deltoid ligament, extensive subcutaneous edema, osteochondral lesion at the lateral talar dome, moderate tibiotalar joint effusion, mild tendinosis of the posterior tibial tendon, minimal tenosynovitis of the peroneal tendons, and low grade plantar fasciitis.

Dr. Korpi treated appellant in follow up on December 7, 2020 and noted that appellant presented on crutches with a right ankle foot brace and was non-weight bearing. He reviewed the December 2, 2020 MRI scan of the right ankle, which revealed an osteochondral lesion in the lateral talar dome and grade two ankle sprain. He diagnosed sprain of unspecified ligament of the right ankle, initial encounter, sprain of tibiofibular ligament of the right ankle, and osteochondritis dissecans of the right ankle and joints of the right foot. Dr. Korpi indicated that he would like to keep appellant non-weight bearing for the next four weeks due to the osteochondral lesion.

OWCP received additional evidence. In a work ability report dated January 4, 2021, Dr. Korpi diagnosed sprain of unspecified ligament of the right ankle, sprain of tibiofibular ligament of the right ankle, and osteochondritis dissecans of the right ankle and joints of the right foot. He noted that appellant was totally disabled from work until February 8, 2021.

By decision dated January 22, 2021, OWCP accepted appellant's claim for sprain of the right ankle, sprain of the tibiofibular ligament of the right ankle, and sprain of the right foot. By a second decision of even date, it indicated that it did not accept osteochondritis dissecans of the right ankle and right foot and right talus and avulsion fracture as work related because appellant did not provide medical evidence, which contained a rationalized medical opinion explaining how these conditions resulted from the accepted November 28, 2020 employment injury.

### **LEGAL PRECEDENT**

When an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>3</sup>

To establish causal relationship between the condition as well as any additional conditions claimed and the employment injury, an employee must submit rationalized medical evidence.<sup>4</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>5</sup>

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<sup>3</sup> *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>4</sup> *T.K.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>5</sup> *T.K., id.; I.J.*, 59 ECAB 408 (2008).

## ANALYSIS

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted November 28, 2020 employment injury.

On November 28, 2020 Dr. Dang treated appellant for right ankle pain and diagnosed right foot and ankle sprain and right talus avulsion fracture. Similarly, in a November 30, 2020 report, Dr. Korpi treated appellant for a right ankle injury and diagnosed sprain of the unspecified ligament of the right ankle and fracture of right talus. However, Drs. Dang and Korpi did not offer an opinion on causal relationship. As the Board has held, medical evidence that does not offer an opinion regarding the cause of an employee's condition or disability is of no probative value on the issue of causal relationship.<sup>6</sup> Thus, the Board finds that these reports are insufficient to meet appellant's burden of proof.

In a work release report dated November 28, 2020, Dr. Korpi evaluated appellant for a right ankle sprain/fracture and indicated that she could return to work with restrictions. On November 30, 2020 he diagnosed sprain of unspecified ligament of the right ankle and other fracture of right talus and noted that appellant was totally disabled. Similarly, in duty status reports (Form CA-17) for examinations that occurred on November 30 and December 7, 2020 and January 4, 2021, Dr. Korpi diagnosed sprain of unspecified ligament of right ankle, initial encounter and advised that appellant was totally disabled from work. Likewise, in a work ability report dated January 4, 2021, he diagnosed sprain of unspecified ligament of the right ankle, sprain of tibiofibular ligament of the right ankle, and osteochondritis dissecans of the right ankle and joints of the right foot. However, Dr. Korpi offered no opinion as to the cause of these diagnosed conditions. An opinion that does not address the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>7</sup> As Dr. Korpi does not offer an opinion on causal relationship, these reports are of no probative value and, thus, insufficient to establish the expansion of the acceptance of appellant's claim.

Dr. Korpi treated appellant on December 7, 2020 and January 4, 2021 and reviewed the MRI scan of the right ankle, which revealed an osteochondral lesion in the lateral talar dome and grade two ankle sprain. He diagnosed sprain of unspecified ligament of the right ankle, subsequent encounter, sprain of tibiofibular ligament of the right ankle, and osteochondritis dissecans of the right ankle and joints of the right foot. However, Dr. Korpi offered no opinion as to whether appellant's osteochondritis dissecans of the right ankle and right foot and right talus avulsion fracture were causally related to the accepted November 28, 2020 employment injury in either report. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>8</sup> As Dr. Korpi did not offer an opinion regarding the cause of appellant's osteochondritis dissecans of

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<sup>6</sup> See *S.H.*, Docket No. 19-1128 (issued December 2, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

the right ankle and right foot and right talus avulsion fracture, his reports are of no probative value and, thus, insufficient to establish the expansion of the acceptance of appellant's claim.

The record contained x-ray reports; however, the Board has held that diagnostic studies standing alone lack probative value as they do not address whether the employment injury caused any of the diagnosed conditions.<sup>9</sup> Appellant also submitted reports from a physician assistant. This evidence has no probative value, however, because physician assistants are not considered physicians as defined under FECA.<sup>10</sup>

As the medical evidence of record is insufficient to establish causal relationship between the additional conditions and the accepted November 28, 2020 employment injury, the Board finds that appellant has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include additional conditions, as causally related to the accepted November 28, 2020 employment injury.

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<sup>9</sup> See *V.H.*, Docket No. 18-1282 (issued April 2, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

<sup>10</sup> Section 8101(2) of FECA provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law." 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). See also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *S.K.*, Docket No. 20-1049 (issued June 28, 2021); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 22, 2021 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 7, 2021  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board